

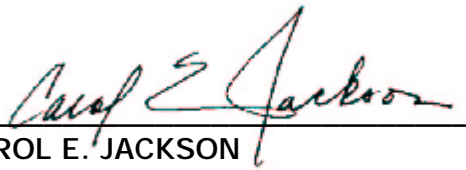
In 1989, Congress enacted the Financial Institutions Reform, Recovery and Enforcement Act by which “Congress established a comprehensive claims review process for claims against the assets of failed banks held by the FDIC as receiver.” Tri-State Hotels, Inc. v. Federal Deposit Insurance Corporation, 79 F.3d 707, 712 (8th Cir. 1996). Claimants must initially submit their claims to the FDIC for review, and must

exhaust the administrative review process before a court has jurisdiction to hear the claims. Id. at 711-12. "Except as otherwise provided in this subsection, no court shall have jurisdiction over any claim or action seeking a determination of rights with respect to, the assets of any depository institution for which the [FDIC] has been appointed receiver. . . ." 12 U.S.C. § 1821(d)(13)(D). "The only exception is found in § 1821(d)(6)(A), which provides that courts have jurisdiction over claims that have first been presented to the FDIC under its administrative review process." Id. at 712. The Tri-State Hotels court concluded that read together, the two provisions "mandate that administrative exhaustion is required before any court acquires subject matter jurisdiction over a claim against the FDIC as receiver for a failed thrift." Id. (citing Bueford v. Resolution Trust Corp., 991 F.2d 481, 484 (8th Cir. 1993)).

Because plaintiff does not allege in the complaint that he filed a claim with the FDIC, nor has plaintiff presented any evidence of having done so. Plaintiff has not exhausted his administrative remedies, and the Court therefore lacks subject matter jurisdiction of this action.

Accordingly,

**IT IS HEREBY ORDERED** that the defendant's motion to dismiss pursuant to FED. R. CIV. P. 12(b)(1) [Doc. #6] is **granted**.

  
CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 13th day of November, 2012.